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24 AND CHRIS VAN PELT

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28
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

29 CHRISTOPHER OTEY, on behalf of
30 himself and all others similarly situated,

31 Plaintiff,

32 v.

33 CROWDFLOWER, INC., LUKAS
34 BIEWALD and CHRIS VAN PELT,

35 Defendant.

36 Case No. 3:12-cv-05524-JST

37 **DEFENDANTS' NOTICE OF
38 WITHDRAWAL OF ADMINISTRATIVE
39 MOTION TO CORRECT RECORD [Doc.
40 No. 168]**

41 **N.D. Cal. Civ. L.R. 7-7(e)**

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On September 3, 2013, Defendants filed their Administrative Motion to Correct Record under N.D. Cal. Civ. L.R. 7-11 [Doc. No. 168], which was directed at two discrete factual matters contained in the Court’s Order Granting Motion for Conditional Certification of Collective Action (“Order”) [Doc. No. 167]. On September 6, 2013, Plaintiffs filed their Memorandum in Opposition to Defendants’ Administrative Motion to Correct the Record.¹ (See Doc. 172.) Pursuant to N.D. Cal. Civ. L.R. 7-7(e), Defendants hereby respectfully withdraw their Administrative Motion to Correct Record [Doc. No. 168].

Dated: September 12, 2013

Respectfully submitted,

LITTLER MENDELSON, P.C.

By: /s/ *R. Bradley Adams*

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¹ In their memorandum in opposition, Plaintiffs generally challenge Defendants' motion as procedurally improper based on the subject matter of the motion, contending that Defendants' motion was actually a motion for reconsideration governed by N.D. Cal. Civ. L.R. 7-9. Defendants filed their motion under Rule 7-11 rather than Rule 7-9 because they are not seeking to have the Court reconsider its decision to conditionally certify a collective action. Instead, Defendants merely seek to have the Court correct the record with respect to two discrete factual statements included in the Order. Further, prior to the Court ruling on the issue of conditional certification, Defendants filed a separate administrative motion to correct record [Doc. No. 162] to address an inaccurate factual matter that arose during the hearing. Plaintiffs did not, as they have done here, oppose that motion based on it purportedly being procedurally improper. Instead, Plaintiffs seemed to concede that the motion was meritorious: "Given this inadvertent error, Plaintiffs agree that references to prior posting about this lawsuit on CrowdFlower's website should be stricken from the record." (Doc. No. 162 p. 3.) In other words, Plaintiffs did not oppose Defendants' prior motion to correct the record on the ground that it was nor directed at an administrative matter. In any event, given the importance of the issues Defendants seek to raise, out of an abundance of caution, Defendants are respectfully submitting this notice of withdrawal and reserve their right to address the issues previously raised in its administrative motion to correct record in a motion for leave to file a motion to reconsider under N.D. Cal. Civ. L.R. 7-11.